

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION
CRIMINAL MINUTES – SENTENCING HEARING**

Case No.: 4:18CR00033-1

Date: 3/10/2020

Defendant: CARL RAY KENNEDY (custody)

Counsel: Michael A. Nicholas, Esq. (retained)

<u>PRESENT:</u>	JUDGE:	Hon. Jackson L. Kiser	TIME IN COURT: 10:33-11:27; 11:48-12:12=
	Deputy Clerk:	Heather McDonald	TOTAL TIME: 1:18
	Court Reporter:	Sonia Ferris - sworn	
	U. S. Attorney:	Rachel B. Swartz, Esq.	
	USPO:	Sidney Edwards	
	Case Agent:	SA Matt Marlowe, FBI	
	Interpreter:	None	

LIST OF WITNESSES:

GOVERNMENT:

1. SA Matt Marlowe, FBI
- 2.
- 3.
- 4.

DEFENDANT:

1. Kristen Winnes
- 2.
- 3.
- 4.

PROCEEDINGS:

- ☐ No Objections to Presentence Report.
- ☒ Court inquires as to Objection(s) to Presentence Report made by ☒ USA ☐ Deft. USA advises USPO sufficiently responded to Objections.
- ☒ Court overrules Objection(s). ☐ Court grants Objection(s).
- ☒ Government presents evidence.
- ☒ Defendant presents evidence .
- ☐ No evidence presented.
- ☒ Court adopts Presentence Report.
- ☐ Court accepts Plea Agreement.
- ☐ Government Motion for Substantial Assistance.
- ☐ Court grants. ☐ Court denies.
- ☐ Defendant Motion for Downward Departure/Variance.
- ☐ Court grants. ☐ Court denies.
- ☒ Allocutions.

SENTENCE IMPOSED AS FOLLOWS:

CBOP: 30 months as to Count 1 to run consecutive to any previously imposed state sentence.

PROB: None.

SR: 3 years - comply w/Standard, Mandatory & Special Conditions.

☐ Mandatory drug testing suspended.

SA: \$100.00 due immediately.

FINE: Waived.

REST: None.

☒ Court recommends as follows:

☒ That Defendant receive appropriate drug treatment while imprisoned.

SPECIAL CONDITIONS OF SUPERVISION (Check applicable conditions):

- ☒ The defendant shall pay any special assessment that is imposed by this judgment.
- ☒ The defendant shall register with all local and state sex offender registration agencies in any jurisdiction where the defendant resides, is employed, carries a vocation, is a student, or is otherwise required to register by SORNA.

- ☒ The defendant shall participate in a program of testing and treatment for substance abuse, as approved by the probation officer, until such time as the defendant has satisfied all requirements of the program.
- ☒ The defendant shall participate in a program of mental health treatment for domestic violence, as approved by the probation officer, until such time as the defendant has satisfied all requirements of the program.
- ☒ The defendant shall reside in a residence free of firearms, ammunition, destructive devices and dangerous weapons.
- ☒ The defendant shall submit his person, property, house, residence, vehicle, papers, [computers as defined in 18 U.S.C. § 1030(e)(1), other electronic communications or data storage devices or media], or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation.
- ☒ The defendant shall not purchase, possess, use or administer any alcohol, or frequent any businesses whose primary function is to serve alcoholic beverages.
- ☒ The defendant shall not contact or communicate, directly or indirectly, with persons less than 18 years of age ("minors"). This includes communication by any means, including verbal, written, telephonic, electronic or other communications. The prohibition against communication with minors is intentionally wide-ranging, encompassing the transmission of any information, whether by audio, video, digital or other means. It includes, but is not limited to, any communications via the Internet, cellular phone, any cellular phone or computer application, text message, social media, social networking website, blog, peer to peer file sharing network or other method. This provision does not encompass minors working as waiters, cashiers, ticket vendors, and similar service positions with whom the defendant must deal in order to obtain ordinary and usual commercial services.
- ☒ The defendant is authorized contact with minors 1) who are relatives of the defendant; 2) who have familial relations with relatives of the defendant; or 3) who have been identified and approved by the U.S. Probation Officer. The contact may occur only in the presence of another adult and with the prior approval of the probation officer. In considering approval of such contact, the probation officer should make an individualized inquiry and a particularized showing of need for the condition.
- ☒ The defendant's residence and employment shall be approved by the probation officer. Any proposed change in residence or employment must be provided to the probation officer at least 10 days prior to the change and must be approved before the change may take place.
- ☒ The defendant shall submit to an evaluation by a qualified mental health professional, approved by the probation officer, who is experienced in the treatment of sexual offenders. The defendant shall take all medications reasonably related to his condition, complete all treatment recommendations, and abide by all rules, requirements, and conditions imposed by the treatment provider until discharged from treatment by the provider.
- ☒ The defendant shall submit to risk assessments and psychological and physiological testing, which may include but is not limited to polygraph or plethysmograph examinations or other specific tests to monitor the defendant's compliance.
- ☒ The defendant shall notify employers, family members, and others with whom the defendant has regular contact of the defendant's sex offender conditions and that the defendant is under the supervision of the probation officer.
- ☒ The defendant shall contact the probation officer within 72 hours of establishing an ongoing romantic relationship with another individual and provide the probation officer with information about the other party. The defendant shall also inform the other party of his prior criminal history concerning sex offenses.
- ☒ The defendant shall not frequent any business whose primary function is to serve alcoholic beverages, if, according to a qualified sex offender treatment provider, such activity may interfere with an ongoing treatment regimen.
- ☒ The defendant shall not reside or linger within 100 feet of any park, school property, playground, arcade, amusement park, daycare center, swimming pool, community recreation field, zoo, youth center, carnival, circus, or other places that are primarily used or can reasonably be expected to be used by minors, without prior permission of the probation officer.

PAYMENT SCHEDULE:

- ☒ A lump sum payment of \$100.00 is due immediately.

ADDITIONAL RULINGS:

- ☐ Defendant shall forfeit his interest in the property listed in the Order of Forfeiture entered on (Date).
- ☐ Order of Forfeiture shall be made a part of the judgment in this case.
- ☐ Defendant shall be ineligible for all federal benefits for mos., yrs., permanently from the date of judgment.
- ☐ Count(s) _____ dismissed on Government Motion.
- ☒ Defendant advised of right to appeal.

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Defendant remanded to custody.

Defendant to remain on bond and self report:

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to the U. S. Marshal no later than (time) on (date).

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to the institution designated by the Bureau of Prisons as directed by the U. S. Marshal.

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to the institution designated by the Bureau of Prisons as directed by the U. S. Probation Office.

Additional Information: